Appendix
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UNITED STATES COURT OF APPEALS

For the Seventh Circuit

No. 74-1094

(Caption Omitted)

JUDGMENT

Before: Fairchild, Stevens, Circuit Judges and Markey, Chief Judge.*

THIS CAUSE came on to be heard upon the petition of Bagley Produce, Inc., to review an order of the National Labor Relations Board issued against said Petitioner, its officers, agents, successors and assigns, on December 28, 1973, and upon the cross-application of the National Labor Relations Board to enforce said order. The Court heard argument of respective counsel on January 20, 1975, and at the conclusion of oral argument handed down its decision granting enforcement of the Board's order and denying the petition for review.

ON CONSIDERATION WHEREOF, it is hereby ordered and adjudged by the United States Court of Appeals for the Seventh Circuit that the petition to review be denied, the said order of the National Labor Relations Board in said proceeding be enforced, and that Bagley Produce, Inc., its officers, agents, successors and assigns, abide by and perform the directions of the Board in said order contained.

*Of United States Court of Customs and Patent Appeals.

IT IS FURTHER ORDERED that costs shall be taxed against the Petitioner.

A True Copy:
Teste:

/s/ Thomas F. Strubbe
Clerk of the United States Court of Appeals for the Seventh Circuit.

/s/ Thomas E. Fairchild
Judge, United States Court of Appeals for the Seventh Circuit

/s/ Howard T. Markey
Chief Judge, United States Court of Customs and Patent Appeals

/s/ John Paul Stevens
Judge, United States Court of Appeals for the Seventh Circuit

UNITED STATES COURT OF APPEALS

For the Seventh Circuit

Chicago, Illinois 60604

February 12, 1975

Before

HON. THOMAS E. FAIRCHILD, Chief Judge
HON. JOHN PAUL STEVENS, Circuit Judge
HON. HOWARD T. MARKEY, Chief Judge, U.S. Customs & Patent Appeals

Petition for Review of an Order of the National Labor Relations Board.

(Caption Omitted)

On consideration of the petition for rehearing filed in the above-entitled cause,

IT IS HEREBY ORDERED that the petition for rehearing in the above-entitled appeal be, and the same is hereby, DENIED.

UNITED STATES COURT OF APPEALS

For the Seventh Circuit

Chicago, Illinois 60604

JANUARY 20, 1975

Before

HON. THOMAS E. FAIRCHILD, Circuit Judge
HON. JOHN PAUL STEVENS, Circuit Judge
HON. HOWARD T. MARKEY, Chief Judge, Court of Customs and Patent Appeals*

Petition for Review of an Order of The National Labor Relations Board

(Caption Omitted)

ORDER

The court having considered the briefs, addressed itself to the record in the above entitled appeal, and having announced its conclusion in open court after hearing oral argument that, contrary to Petitioner's contentions, substantial evidence in the light of the whole record supports the

* Chief Judge Howard T. Markey of the United States Court of Customs and Patent Appeals is sitting by designation.

Board's finding that the company discharged employees because they engaged in protected, concerted activities and that judgment enforcing the order of the Board will be entered,

IT IS ORDERED that a decree enforcing the Board's order be submitted and settled pursuant to Rule 19, F.R.A.P.

MFJ
D-8239
208 NLRB No. 13 Milwaukee, Wis.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR
RELATIONS BOARD

BAGLEY PRODUCE, INC.

and Case 30-CA-2252

FREEDOM THROUGH EQUALITY, INC.

DECISION AND ORDER

On August 22, 1973, Administrative Law Judge Fannie M. Boyls issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and

brief and has decided to affirm the rulings, findings, and conclusions of the Administrative Law Judge and to adopt her recommended Order as herein modified.[1]

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge, as modified below, and hereby orders that Respondent, Bagley Produce, Inc., Milwaukee, Wisconsin, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order as so modified.

1. Delete from paragraph 1(a) the words "including union activities."

2. Substitute the attached notice for that of the Administrative Law Judge.

Dated, Washington, D.C. Dec. 28, 1973.

Edward B. Miller, Chairman

[1]We find it unnecessary to reach the question whether Respondent violated Sec. 8(a)(3) of the Act in view of the substantial evidence that Respondent violated Sec. 8(a)(1) and the sufficiency of the Remedy. Therefore, we have amended the Order and the notice to conform with the above.

John H. Fanning, Member

Howard Jenkins, Jr., Member

(SEAL) NATIONAL LABOR
RELATIONS BOARD

208 NLRB No. 13

CROSS-APPLICATION FOR ENFORCEMENT
OF AN ORDER OF THE NATIONAL
LABOR RELATIONS BOARD

To the Honorable, the Judges of the United States Court of Appeals for the Seventh Circuit:

On January 31, 1974, pursuant to Section 10(f) of the National Labor Relations Act, as amended, (61 Stat. 136, 73 Stat. 519, 29 U.S.C., Sec. 151, et seq.) Bagley Produce, Inc., instituted the caption proceeding by filing with this Court a petition to review and set aside an order issued against it by the National Labor Relations Board on December 28, 1973, in a case appearing on the records of the Board as Case No. 30-CA-2252.

Pursuant to Section 10(f) of the Act and Section 15(b) of the Federal Rules of Appellate Procedure, the Board files this cross-application for enforcement of said order.

In support of this cross-application, the Board respectfully shows:

(1) The Petitioner is a party aggrieved by a final order of the Board. This Court therefore has jurisdiction of this cross-application for enforcement by virtue of Section 10(f) of the National Labor Relations Act, as amended.

(2) Upon the due proceedings had before the Board in said matter, the Board on December 28, 1973, duly stated its findings of fact and conclusions of law, and issued an Order directed to the Petitioner, its officers, agents, successors, and assigns. On the same date, the Board's Decision and Order was served upon the Petitioner by sending a copy thereof postpaid, bearing Government frank, by registered mail, to Petitioner.

(3) Pursuant to Section 10(f) of the National Labor Relations Act, as amended, and Rule 17 of the Federal Rules of Appellate Procedure, the Board is certifying and filing with this Court a transcript of the entire record of the proceeding before the Board upon which the said Order was entered, which transcript includes the pleadings, testimony and evidence, findings of fact, conclusions of law, and the Order of the Board sought to be enforced.

WHEREFORE, the Board prays this Honorable Court that it cause notice of the filing of this cross-application and transcript to be served upon the Petitioner and that this Court take jurisdiction of the proceedings set forth in the transcript and upon the Order made thereupon a judgment enforcing in whole said Order of the Board, and requiring the

Petitioner, its officers, agents, successors, and assigns, to comply therewith.

/s/ Elliott Moore
Elliott Moore
Deputy Associate General Counsel
NATIONAL LABOR RELATIONS BOARD

Dated at Washington, D. C.
this 8th day of March, 1974.

CERTIFICATE OF THE
NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board, by its Executive Secretary, duly authorized by Section 102.115, Rules and Regulations of the National Labor Relations Board -- Series 8, hereby certifies that the documents annexed hereto constitute a full and accurate transcript of the entire record of a proceeding had before said Board and known upon its records as Case No. 30-CA-2252.

Fully enumerated, said documents attached hereto are as follows:

1. Stenographic transcript of testimony taken before Administrative Law Judge Fannie M. Boyls on June 6, 7 and 8, 1973, together with all exhibits introduced into evidence.

2. Copy of Administrative Law Judge's Decision issued August 22, 1973.

3. Copy of Administrative Law Judge's Errata dated August 23, 1973.

4. Copy of Petitioner's[1] Exceptions to the Administrative Law Judge's Decision, received October 1, 1973.

5. Copy of Decision and Order issued by the National Labor Relations Board on December 28, 1973.

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[1]Petitioner herein was Respondent before the Board.

IN TESTIMONY WHEREOF, the Executive Secretary of the National Labor Relations Board, being thereunto duly authorized as aforesaid, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this 8 day of March, 1974.

/s/ John C. Truesdale
John C. Truesdale
Executive Secretary
NATIONAL LABOR RELATIONS BOARD

(SEAL)